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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/804,369      | 03/12/2001  | Bastiaan Driehuys    | 5770-21             | 9041             |

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EXAMINER

HARTLEY, MICHAEL G

ART UNIT PAPER NUMBER

1616

DATE MAILED: 06/19/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/804,369

Applicant(s)

DRIEHUYS ET AL.

Examiner

Michael G. Hartley

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-88 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-88 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-23, drawn to a method of screening for a pulmonary embolism, classified in class 424, subclass 9.3.
- II. Claims 24-41, drawn to a method of enhancing MRI images, classified in class 424, subclass 9.3.
- III. Claims 42-45, drawn to a method of obtaining images of the cranial region, classified in class 424, subclass 9.3.
- IV. Claims 46, 48 and 49, drawn to a method of facilitating bubble dissipation, classified in class 514, subclass 953.
- V. Claims 47 and 50-63, drawn to a method to obtain an MRI image, classified in class 424, subclass 9.3.
- VI. Claims 64-69, drawn to a method of evaluating drug therapy, classified in class 424, subclass 9.2.
- VII. Claims 70 and 71, drawn to a method of detecting cancerous tissue, classified in class 424, subclass 9.3.
- VIII. Claims 72 and 73, drawn to a Xe-129 product, classified in class 534, subclass 7.
- IX. Claims 74-79, drawn to a syringe, classified in class 128, subclass 919.
- X. Claim 80, drawn to a method of preparing a gas container, classified in class 206, subclass .6.
- XI. Claim 81, drawn to a method of sizing the length of capillaries, classified in class 600, subclass 481.
- XII. Claim 82, drawn to a container with a primary gas, classified in class 220, subclass 560.
- XIII. Claims 83-85, drawn to a container having a primary gas holding chamber and a capillary stem, classified in class 600, subclass 200.23.
- XIV. Claims 86-88, drawn to an injection system comprising a catheter, classified in class D24, subclass 112.

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The inventions are distinct, each from the other because of the following reasons:

Inventions I-XIV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are drawn to different methods or products which vary in modes of operation, functions and effects. For example, the grouped inventions are drawn to various imaging methods, such as, detecting cancer or pulmonary embolism or the cranium, all of which have different modes of operation, as they detect different tissues and/or different physiological states or conditions. Other methods are drawn to monitoring drug therapy, which requires a therapeutic method to have been performed, while other methods are for facilitating bubble dissipation or sizing the length of capillaries. Further, the product claims are drawn to different containers, syringes, injector systems, etc., which have different modes of operation and functions as they contain various different components, catheters, syringes, capillary stems, etc.

Inventions I-VII, X and XI and VII, IX, XII-XIV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the methods of imaging, detecting cancerous tissues, enhancing MRI, evaluating drug delivery may be performed with materially different products, radioactive imaging agents, ultrasound contrast agents, etc.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for one group is not required for another group, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

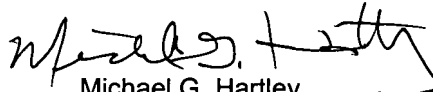
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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Hartley whose telephone number is (703) 308-4411. The examiner can normally be reached on M-F, 7:30-5, off alternative Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose G. Dees can be reached on (703) 308-4628. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
Michael G. Hartley  
Primary Examiner  
Art Unit 1616

MH  
June 18, 2002